

**Kuna Planning & Zoning Commission Meeting  
June 9, 2010**

**NOTE:** *These minutes are an unofficial record of this Planning & Zoning meeting until reviewed, corrected (if deemed appropriate), and formally approved by the Kuna Planning & Zoning Commission at a subsequent Planning & Zoning meeting.*

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**Those present:**

Chairman David Case, Vice Chairman Carl Trautman, Commissioner Stan Sanders, Commissioner Curt James, Commissioner Stephanie Wierschem, City Attorney Richard Johnson, Director Steve Hasson, Planner II Troy Behunin, and Planner Tracy Rushlow,

Absent:

The Kuna Planning & Zoning meeting was called to order by Chairman Case at 6:00 p.m., located at the Kuna City Hall, 763 W. Avalon, Kuna.

<b>Consent Agenda</b>
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Chairman Case opened the meeting at 6:01 pm

Consent Agenda:

Planning and Zoning minutes:  
May 26 , 2010

**Facts and Findings and Conclusions of Law**  
None.

Chairman Case motions to approve the consent agenda, Commissioner Sanders seconds, all approve, motion carries.

<b>OLD BUSINESS</b>
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**None**

<b>NEW BUSINESS</b>
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10-05-SUP; Kimberly Day; Group home daycare: Planner Tracy Rushlow presented the application. Property owner Kimberly Day, who resides at 1698 N Harem Way, is interested in opening a group daycare, with the definition of group home daycare as caring for seven to twelve children. At this time she wishes to start with the numbers of seven (7) children to include her own children and in time go up to 12 children. We have put in conditions that if Ms. Day does go up to 12 children she will have to do another neighborhood meeting to inform her neighbors of the increase of children, re-inspection of home and documentation of additional employees with all clearances as required by the State and amending of the Special Use permit as well.

Commissioner James: Who manages or checks to see if she falls out of compliance?

Staff: it is usually done by the State, they do unexpected checks and on complaints, we do not have anything in place at this time to check but we hope to have something in the future to cure that.

Planning Director Steve Hasson: We feel that the children are our greatest assets and need to be looked after, and we are trying to make sure that there enough stop gaps are in place to make sure that they are taken care off. We may not do the inspections but we want to be aware of any infractions or problems.

Chairman Case: Under procedure items, it does not show that she posted, did she?

Staff: yes she did, it was posted on 5-28-10, when it was suppose to be posted, I forgot to put it in on your copies but it is in on the one on the website.

Commissioner Trautman: My understanding that there was no on-street parking, does it meet the requirements?

Staff: they have three off-street parking spaces so it meets the requirements.

Applicant Kimberly Day, 1698 N Harem Way, Kuna, I wanted to open my home for childcare where they felt safe. I charge reasonable rates and for the last couple of years I have done music and movement at the Kuna Library and I am implementing that also in to the program along with educational activities and the nutritional program through food works so they will be eating healthy. I am excited about this and I hope I have gone through all the hoops now.

Commissioner Weirschem: The backyard that is fenced how is it secured? In regards to napping, where would they nap?

Applicant: the drive through gate has a bolt with a lock on the inside and the walk-in gate has a hasp that has steel rods that run through and no one from the outside can enter the back yard. As for napping, if I get infants that require napping, I have a twin bed in the play room; I have a play pen also that can be set up for napping. No one is allowed up stairs. I would prefer older children at least one year old or older as I can have more of them.

Chairman Case: You have seen standard conditions? Have you contacted your HOA and are there any issues there?

Applicant, yes. I have talked with Christine Compton in charge of our HOA and she did not see any problems with us doing the daycare, and I tried to go on-line to check out our HOA site but it is not on line any longer.

Public hearing opened at 6:13 pm

Support: none

Neutral: none

Oppose: none

Close public hearing at 6:13 pm

Commission Discussion:

Commissioner Sanders: Ms. Day has walked through all the hoops and thank you for a complete application.

Commissioner Trautman: Again thank you a complete application and good luck. On a side note, do we keep track of all of these daycares and is there an over saturation of them.

Staff: we have a map that our GIS mapper has put together with the daycares on them, some are no longer in business but there is not a saturation of them in her area.

Commissioner James: this seems pretty straight forward so I have no concerns.

Chairman Case: I have no concerns so I would entertain a motion.

Commissioner Trautman motions to approve file 10-05-SUP with the following conditions:

- Meet all staff and agency requirements and conditions.

Commissioner James seconds, all approve, motion carries.

## REPORTS

**Planner Director Steve Hasson:** We have been busy, there are a lot of investors looking here, and it helps that Les Schwab's and Walgreens are here. I am working on an analysis for Ada County Commissioners for our negotiation for our area of City impact. They have asked a bunch of questions and I am working on those. I will send you a copy when I am finished. Our planning area will be about 52 square miles where currently it is about 5 square miles.

**City Attorney Richard Johnson:** none

## CHAIRMAN DISCUSSION

Commissioner Sanders: Back on 3/10/09 we approved a Special Use for the Arlene, with several conditions and one of those was that the rear wall was to have a maximum height of 12 feet, with construction plans approved by the City Building Official, there was mention of a clock, and none of those things have been done and I wondered if we should reopen those Special Use Permits who have conditions that have not followed through on them.

Planner Director Hasson, That is your prerogative, I will write them a letter that states that they had a year to do the conditions that were placed on them by the P&Z Commission and if they wish to keep the Special Use Permit active they have to complete those conditions. We are reopening and re-evaluating your special use permit and have them come back before you to explain why the conditions placed on them are not complete.

Chairman Case: It seems like we grant those permits and they are not following up with the conditions.

Planning Director Hasson; Well then we need to bring those parties back in to have them explain why and put them on notice. If no other reason to say what you mean and mean what you say.

Chairman Case: I think that is wise to send that letter out to have them respond, but give a short time because they have had a long enough time to complete the project, but in addition to the letter to the Arlene I would like to see a letter go to the heating place on Linder and Hubbard that we approved also, I believe it is Ultimate Heating. They put up their fence but I believe they had parking to complete and they have not done so. I think that we need to have send a message that these thing need to be completed or there will be consequences. I would like to see a time line in the letter for them to respond back and let them know that this has to be done. And if those time lines are not met then we bring it back before the Commission.

Commissioner Sanders: is there something in place so that a year or so we do not have to be "on the ground" looking for these things to have completed the conditions?

Planning Director: There is not a good plan in place, we are a growing community with a small staff, and not to make excuses, but we want these people to follow through and do what they have been conditioned to do. We do what we can do; we have enforcement issues daily and it helps that you keep your eyes open and let us know when something needs done or is out of school.

Commissioner James: Can you explain the dominos that fall after the revocation if the special use falls down?

Planning Director Hasson: You no longer have that use and could not continue that business.

Commissioner Wierschem: Can we see the map of where those daycares are? And can we make them provide something where they have checked with their Home Owners Association to make sure that they can have that childcare facility or whatever they are doing that required them to come before us? I would like to take the burden off of the City on this and put it on the applicant.

Staff: not a problem. We can do up an additional check off box or have a form made up that requires a sign off that they have checked with their HOA.

Chairman Case: Ok so where do we stand as the City if we deny an application due to the fact that the HOA does not allow a home based business?

Planning Director Hasson: We have no oversight with the HOA and the members in it. It is a civil matter between them. We do not endorse or enforce the covenants. But again if they do not follow their HOA's then what's to say that they will follow the conditions we put upon them. And I think that the HOA should or could come up and give a good reason why it should or should not be allowed. The findings of facts are something of a framework to give you guidance on the application.

Chairman Case: Under letter "G" on facts and findings of Special Use Permit it says: "Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, grease, fumes, glare or odors." I think that maybe we could use that as a reason of denial, more noise from the kids playing, more traffic from the cars coming in the subdivision. You could argue that this is a reason to deny the special use.

City Attorney: It is a bit of a fine line that you have to walk, but you can deny it for any number of reasons and they always have the appeal process with the City Council.

Commissioner James: Would it be simply as amending the Special Use for daycare applications that makes the applicant responsible for making sure that they have talked to their HOA and putting the burden back on them?

Chairman Case: Most of the subdivisions we have now are active with their HOA's and we should be able to have the applicant contact them and have at least the HOA call us and document that.

Commissioner Sanders: I notice that there are a couple of vacant commercial buildings, one is where the American Family Insurance was and the other is the Tack Shop, neither one of these properties adheres to the codes we have up to this point. I notice that other businesses go in where one was before and no improvements were done; do we have some kind of thing that triggers something that would bring them up to code? Should there be any authority to make them do improvements?

Planner Director: If that business is permitted in that location and they do not enlarge or expand, we cannot do anything. Now if they enlarge or expand the business or make improvements to the

exterior we can; they will have to go through Design Review and at that point we can make it a condition that they have to be up to standards by putting in curb, gutter sidewalk and paved parking or whatever the standards are at that time. Or if it requires a special use permit we can also make conditions. Other than that, we cannot and I believe that there are no authorities or state statutes that would give us the authority to make them do improvements if the use is permitted and if they do not expand or enlarge.

Commissioner James: I will not be able to attend the next meeting.

<b>ADJOURNMENT</b>
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Chairman Case motions to adjourn at 6:59

Commissioner Wierschem seconds, all approve, motion carries.

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David Case, Chairman

ATTEST:

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Tracy Rushlow, Planner